

1 IN THE UNITED STATES DISTRICT COURT FOR THE
 2 NORTHERN DISTRICT OF OKLAHOMA
 3
 4

5 W. A. DREW EDMONDSON, in his)
 6 capacity as ATTORNEY GENERAL)
 7 OF THE STATE OF OKLAHOMA and)
 8 OKLAHOMA SECRETARY OF THE)
 9 ENVIRONMENT C. MILES TOLBERT,)
 10 in his capacity as the)
 11 TRUSTEE FOR NATURAL RESOURCES)
 12 FOR THE STATE OF OKLAHOMA,)
 13)

14 Plaintiff,)
 15)

16 vs.)

4:05-CV-00329-TCK-SAJ

17 TYSON FOODS, INC., et al,)
 18)

19 Defendants.)
 20)

21 -----
 22 VOLUME II OF THE VIDEOTAPED
 23 DEPOSITION OF BERNARD ENGEL, PhD, produced as a
 24 witness on behalf of the Defendants in the above
 25 styled and numbered cause, taken on the 9th day of
 January, 2009, in the City of Tulsa, County of
 Tulsa, State of Oklahoma, before me, Lisa A.
 Steinmeyer, a Certified Shorthand Reporter, duly
 certified under and by virtue of the laws of the
 State of Oklahoma.

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EXHIBIT

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1 (Whereupon, the court reporter read
2 back the previous question.)

3 A It's going to be approximately 2.8 percent.

4 Q How did you get there?

5 A Well, again, because it was calibrated, so I 03:35PM
6 guess I didn't compute that as a percentage. So,
7 again, here's the logics of it. Because it was
8 calibrated to match the observed data, we know the
9 phosphorus loads in that coefficient is about 2.8
10 percent. GLEAMS is reproducing that. So, you know, 03:35PM
11 without doing a calculation specific to GLEAMS, it
12 has to be about 2.8 percent.

13 Q I'm lost, and I need you to help me, Dr.
14 Engel. What coefficient are you referring to that
15 is 2.8 percent? 03:36PM

16 A That would be the amount of phosphorus or --
17 yes, the amount of phosphorus in poultry waste
18 that's land applied that one would expect to see in
19 an average year based on '97 to 2006 at the three
20 gauging stations in the IRW. 03:36PM

21 Q When I heard you say coefficient, I thought
22 you were describing an actual input to the model.
23 Did I misunderstand that?

24 A I'm sorry. You know, there's not -- there is
25 not a specific coefficient that I put into the 03:36PM

1 A Well, in that -- there's documentation that
2 shows Peterson Farms growers applied waste within
3 the watershed. You know, the model indicates that
4 that runs off, carries phosphorus. Literature
5 indicates that when it's land applied, it runs off 04:37PM
6 and carries phosphorus, carries bacteria, carries
7 other things. So it does carry a suite of potential
8 contaminants.

9 Q But you haven't attributed any mass of
10 phosphorus or any percentage of the total loading to 04:38PM
11 either Peterson Farms or Tyson Foods or Simmons Food
12 or George's or any defendant in this case; that's
13 correct, isn't it?

14 MR. GARREN: Object to form.

15 A Correct. I've not performed that allocation. 04:38PM

16 Q On Page 28 of your report, your summary table
17 of the sewage treatment plants, Table 6.1.

18 A Okay.

19 Q Why is it you have zero load attributed to the
20 Watts sewage treatment plant? 04:38PM

21 A It looks like it was not zero in the early
22 part of my analysis, in the '90s through 2002.
23 Looks like I'm attributing zero to that from 2003 to
24 present, so --

25 Q Why is the question? 04:39PM